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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,933	04/16/2001	Corbett T. Hefner	81.010	9053

7590 01/23/2003

Timothy E. Newholm
BOYLE, FREDRICKSON, NEWHOLM, STEIN & GRATZ, S.C.
250 Plaza, Suite 1030
250 East Wisconsin Avenue
Milwaukee, WI 53202

EXAMINER

GARBE, STEPHEN P

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 01/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Interview Summary

Application No.

09/835,933

Applicant(s)

HEFNER, CORBETT T.

Examiner

Stephen Garbe

Art Unit

3727

All participants (applicant, applicant's representative, PTO personnel):

(1) Stephen Garbe.

(3) _____.

(2) Mr. Newholm.

(4) _____.

Date of Interview: 21 January 2003.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: _____.

Claim(s) discussed: None.

Identification of prior art discussed: None.

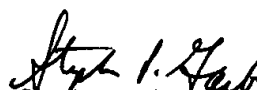
Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Mr. Newholm advised Examiner Garbe that he did not receive a copy of the text of the Office Action mailed 1/7/03 and requested that a copy be faxed to him. Mr. Newholm stated that the SSP did not need to be restarted if the fax were sent today. The missing pages were faxed today at 12:30 to 414-225-9753.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

i) ☒ It is not necessary for applicant to provide a separate record of the substance of the interview (if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.


Stephen P. Garbe
Primary Examiner

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case unless both applicant and examiner agree that the examiner will record same. Where the examiner agrees to record the substance of the interview, or when it is adequately recorded on the Form or in an attachment to the Form, the examiner should check the appropriate box at the bottom of the Form which informs the applicant that the submission of a separate record of the substance of the interview as a supplement to the Form is not required.

It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.



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Timothy E. Newholm
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EXAMINER

GARBE, STEPHEN P

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 01/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/835,933

Applicant(s)

HEFNER, CORBETT T.

Examiner

Stephen Garbe

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 22-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 3727

1. Applicant's election of the invention of Group I, claims 1-21, without traverse, is noted. Claims 22-31 are withdrawn from consideration under 37 CFR 1.142(b) as not being drawn to the elected invention.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This claim is indefinite because it is unclear what is being claimed beginning with "preventing" in line 11. What is it that the extension prevents?

4. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This claim is indefinite for the same reason as claim 20 because it includes all of the limitations of claim 20.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huertas, Spanish publication number 1,033,033 in view of Fox et al, United States Patent No. 6,024,489 (Fox), and further in view of any one of Shigeru, Japanese publication number 2000-142712, or Christensen, United States Patent No. 3,506,185, or Bell, United States Patent No. 5,882,120. Huertas discloses the basic claimed

Art Unit: 3727

combination of a bag having a first side wall 2 of mesh material and a second side wall 1 of film material, the first side wall having a reinforcing strip 4 attached to its upper end. Huertas does not state whether reinforcing strip 4 is attached at its side edges to second side wall 1. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use synthetic resin material for Huertas's bag, as taught by Fox in column 2, lines 58-67, because they are both produce bags which operate in the same manner to produce the same result. It would have been further obvious to seal the bag side edges together all of the way to the top of the bag, as taught by any one of Shigeru, Christensen, or Bell, because doing so would have provided more storage space for the bag contents. Regarding claims 5-7, the distances recited in those claims would have been an obvious matter of mechanical expedience.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1. Furthermore, Huertas discloses holes 4, which can be deemed "wicket holes" because the term "wicket" imparts no structure to the claimed holes. Alternatively, it would have been obvious to substitute wicket holes, as taught by Fox, for Huertas's hand holes because doing so would have allowed a stack of Huertas's bags to be attached to a wicket for the purpose of facilitating filling.

8. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 8. It would have been further obvious to provide the wicket holes with slits extending from them, as also taught by Fox at 40, because they facilitate removing the bag from a wicket.

Art Unit: 3727

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1. Furthermore, the claimed overlap would have been an obvious matter of mechanical expedience.

10. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1. Furthermore, the claimed seam strength would have been an obvious matter of mechanical expedience.

11. Claims 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huertas, Spanish publication number 1,033,033 in view of Fox et al, United States Patent No. 6,024,489 (Fox), and further in view of any one of Shigeru, Japanese publication number 2000-142712, or Christensen, United States Patent No. 3,506,185, or Bell, United States Patent No. 5,882,120. Huertas discloses the basic claimed combination of a bag having a first side wall 2 of mesh material and a second side wall 1 of film material, the first side wall having a reinforcing strip 4 attached to its upper end. Huertas does not state whether reinforcing strip 4 is attached at its side edges to second side wall 1. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use synthetic resin material for Huertas's bag, as taught by Fox in column 2, lines 58-67, because they are both produce bags which operate in the same manner to produce the same result. It would have been further obvious to seal the bag side edges together all of the way to the top of the bag, as taught by any one of Shigeru, Christensen, or Bell, because doing so would have provided more storage space for the bag contents. Furthermore, Huertas discloses holes 4, which can be deemed "wicket holes" because the term "wicket" imparts no structure to the claimed

Art Unit: 3727

holes. Alternatively, it would have been obvious to substitute wicket holes, as taught by Fox, for Huertas's hand holes because doing so would have allowed a stack of Huertas's bags to be attached to a wicket for the purpose of facilitating filling. In addition, the claimed dimensions would have been obvious matters of mechanical expedience.

12. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huertas, Spanish publication number 1,033,033 in view of Fox et al, United States Patent No. 6,024,489 (Fox). Huertas discloses the basic claimed combination of a bag having a first side wall 2 of mesh material and a second side wall 1 of film material, the first side wall having a reinforcing strip 4 attached to its upper end. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use synthetic resin material for Huertas's bag, as taught by Fox in column 2, lines 58-67, because they are both produce bags which operate in the same manner to produce the same result. Furthermore, Huertas discloses holes 4, which can be deemed "wicket holes" because the term "wicket" imparts no structure to the claimed holes. Alternatively, it would have been obvious to substitute wicket holes, as taught by Fox, for Huertas's hand holes because doing so would have allowed a stack of Huertas's bags to be attached to a wicket for the purpose of facilitating filling.

13. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 20 and further in view of any one of Shigeru, Japanese publication number 2000-142712, or Christensen, United States Patent No. 3,506,185, or Bell, United States Patent No. 5,882,120. Huertas does not state whether reinforcing strip 4

Art Unit: 3727

is attached at its side edges to second side wall 1. It would have been obvious to seal the bag side edges together all of the way to the top of the bag, as taught by any one of Shigeru, Christensen, or Bell, because doing so would have provided more storage space for the bag contents.


14. The remaining patents are cited to show other, similar bags.

15. Any inquiry concerning this application or proceeding should be directed to Stephen Garbe who can be reached at 703-308-1207. The examiner can normally be reached Monday-Thursday between the hours of 7:15 and 4:45 and alternate Fridays between the hours of 7:15 and 3:45.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on 703-308-2572.

17. The fax phone numbers for Technology Center 3700 are 703-872-9302 for papers filed in response to a non-final Office Action and 703-872-9303 for papers filed in response to a Final Office Action.

18. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist, whose telephone number is 703-308-1148.


Stephen P. Garbe
Primary Examiner
Group 3720

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO	0866
CONNECTION TEL	914142259753
SUBADDRESS	
CONNECTION ID	
ST. TIME	01/21 12:03
USAGE T	04'20
PGS.	8
RESULT	OK

Page 6

Application/Control Number: 09/835,933
Art Unit: 3727

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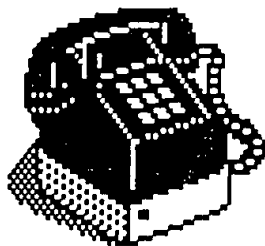
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TELECOPY/FACSIMILE TRANSMISSION COVER SHEET



DATE: 1/21/03

DATE:

TO: (NAME) Mr. Timothy Newholm

TO: (NAME)

(COMPANY OR FIRM) Boyle, Fredrickson, Newholm,
Stein, & Gratz, S.C.

(COMPANY OR FIRM)

(FAX No.) 414-225-9753

(FAX No.)

FROM: (NAME) Stephen Garbe

FROM: (NAME)

(VOICELINE No.) 703-308-1207

(VOICELINE No.)

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- ☐ PATENT EXAMINING CORPS AND ASST. COMMISSIONER'S OFFICE,
TELEFAX VOICELINE @ 703-308-1353; OR TELEFAX MACHINES @ 703-308-37[18, 19, 20, OR 21]
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- ☐ OTHER TELECOPIER NUMBER: _____
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